

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, <i>ex rel.</i>)	
State Engineer)	69cv07941-MV/KK
)	RIO CHAMA STREAM SYSTEM
Plaintiff,)	
)	Section 3, Rio Cebolla
vs.)	
)	Subfile Nos. CHCB-001-0007,
ROMAN ARAGON, <i>et al.</i> ,)	CHCB-002-0001B, CHCB-002-0002C,
)	CHCB-002-0009
Defendants.)	
_____)	

**STATE OF NEW MEXICO’S MOTION FOR PARTIAL SUMMARY JUDGMENT
REGARDING WATER RIGHTS TO THE OLD VALDEZ DITCH**

The State of New Mexico *ex rel.* State Engineer (“State”) respectfully moves pursuant to Federal Rule of Civil Procedure 56, Local Rule 56, and the *Revised Pretrial Order* entered on December 16, 2014 (Doc. 11064) for partial summary judgment against Defendants Charlie and Geralda M. Chacon and Delfin O. and Francis S. Quintana Trust (“Defendants”) regarding Defendants’ rights to water from the Rio Cebolla under the “Old Valdez” ditch. As grounds for this motion, the State incorporates the accompany memorandum in support. There are no genuine issues of material fact and the State is entitled to judgment as a matter of law.

Standard of Review

Rule 56 provides “[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56. As demonstrated in the memorandum filed in support of this motion, based on undisputed material facts and as a matter of law, the State is entitled to summary judgment that Defendants Charlie and Geralda M. Chacon have no rights to water from the Old Valdez ditch other than those recognized in a consent order entered in Subfile No.

CHCB-002-0001A (July 23, 2010, Doc. No. 9916) and Defendants Delfin O. and Francis S. Quintana Trust have no rights to water from the Old Valdez ditch.

The State respectfully requests that the Court enter summary judgment by making the following determinations as a matter of law:

1. The Old Valdez ditch and the Alfalfita ditch were originally constructed as two separate ditches;
2. The Alfalfita ditch was constructed at some unknown time after 1907;
3. The Old Valdez ditch and Alfalfita ditch were connected at some unknown time after 1907; and
4. Defendants have no rights to irrigate the claimed tracts under the Old Valdez ditch from the Rio Cebolla,

WHEREFORE, the State respectfully requests that the Court enter summary judgment in Subfile Nos. CHCB-002-0009 and CHCB-002-0001B that Defendants Charlie and Geralda M. Chacon have no rights to water from the Old Valdez ditch other than those recognized in a consent order entered in Subfile No. CHCB-002-0001A and enter summary judgment in Subfile No. CHCB-002-0002C that Defendants Delfin O. and Francis S. Quintana Trust have no rights to water from the Old Valdez ditch.

Respectfully submitted,

/s/ Misty Braswell

Misty M. Braswell

Ed Newville

Special Assistants Attorney General

New Mexico Office of the State Engineer

P. O. Box 25102

Santa Fe, NM 87504-5102

Telephone: (505) 827-3989

Fax: (505) 827-3887

misty.braswell@state.nm.us

Attorneys for Plaintiff State of New Mexico

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of July, 2015 I filed the foregoing electronically through the CM/ECF system which caused the parties listed on the electronic service list to be served via electronic mail.

/s/ Misty M. Braswell